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7 Principal, California Water Research

8  
9 **BEFORE THE**  
10 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**  
11

12 HEARING REGARDING PETITION  
13 FILED BY THE DEPARTMENT OF  
14 WATER RESOURCES AND U.S. BUREAU  
15 OF RECLAMATION REQUESTING  
16 CHANGES IN WATER RIGHTS FOR THE  
17 CALIFORNIA WATERFIX PROJECT

18 JOINDER IN THE REQUEST FOR  
19 RECONSIDERATION OF RULING ON  
20 PART 2 SUR-REBUTTAL BY LAND ET.  
21 AL.

22 Deirdre Des Jardins, principal at California Water Research (“California Water  
23 Research”) hereby joins in the September 11, 2018 "Request for Reconsideration of Ruling on  
24 Part 2 Sur-Rebuttal," filed by Local Agencies of the North Delta, et al. (“LAND et. al.”) The  
25 request is incorporated fully as if set forth herein. California Water Research provides the  
26 following additional argument and requests.

27 There are significant conflicts between the accelerated hearing schedule, and the Board’s  
28 requirement under CEQA to consider the information in the revisions of the Admin Draft  
Supplemental EIR/EIS. It has been settled law for over 100 years that parties to an  
administrative hearing have the right to examine and rebut evidence. As stated by the U.S.  
Supreme Court:

All parties must be fully apprised of the evidence submitted or to be considered, and must  
be given opportunity to cross-examine witnesses, to inspect documents and to offer

1 evidence in explanation or rebuttal. In no other way can a party maintain its rights or  
2 make its defense.

3 (*Int. Com. Comm. v. Louis. & Nash. R.R.*, (1913) 227 U.S. 88, 93 accord *Massachusetts etc. Ins.*  
4 *Co. v. Industrial Acc. Com.*, (1946) 74 Cal.App.2d 911, 914)

5 Since CEQA requires that the Board consider additional information in the Public Draft  
6 Supplemental EIR/EIS for the Board's decision on the project, parties must also be given a  
7 chance to rebut information in the document.

8 California Water Research therefore makes the following additional requests:

- 9 1. In the interests of hearing efficiency, California Water Research requests that the  
10 Board also allow surrebuttal testimony on the information in the Public Draft  
11 Supplemental EIR/EIS, which was released on July 18, 2018. Ms. Meserve requested  
12 that the Public Draft Supplemental EIR/EIS be provided as a SWRCB exhibit.
- 13 2. While the Hearing ruling properly allows surrebuttal on the 2018 Conceptual  
14 Engineering Report, which is new information submitted by petitioners, it does not  
15 allow surrebuttal on DWR-1143 rev2, which was also new information submitted  
16 during rebuttal. California Water Research requests that the hearing officers allow  
17 surrebuttal on DWR-1143 rev2.
- 18 3. LAND et. al. quotes the August 31, 2018 statement by the attorney for the  
19 Department of Water Resources about the "complexities of the interaction of the state  
20 and federal processes" for the WaterFix environmental documents. This statement  
21 raised significant questions about Reclamation's NEPA process for the WaterFix  
22 Supplemental EIS. California Water Research requests that the Hearing Officers  
23 require that Reclamation clarify Reclamation's process for the Supplemental EIS.

24 Thank you for your consideration of these requests.

25 Dated September 12, 2018

1 Sincerely,

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5 Deirdre Des Jardins  
6 Principal, California Water Research  
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1   **CALIFORNIA WATERFIX PETITION HEARING**  
2   **Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

3   I hereby certify that on September 12, 2018 I submitted to the State Water  
4 Resources Control Board and caused a true and correct copy of the following  
5 document(s):

6   **Joinder in the Request for Reconsideration of**  
7   **Ruling on Part 2 Sur-Rebuttal by LAND et. al.**

8 to be served by Electronic Mail (email) upon the parties listed in the Current Service List  
9 for the California Water Fix Petition Hearing, dated September 12, 2018, posted by the  
10 State Water Resources Control Board at  
11 [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)  
12 [waterfix/service\\_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

13 *Note: In the event that any emails to any parties on the Current Service List are*  
14 *undeliverable, you must attempt to effectuate service using another method of service, if*  
15 *necessary, and submit another statement of service that describes any changes to the date*  
16 *and method of service for those parties.*

17 I certify that the foregoing is true and correct and that this document was executed on  
18 September 12, 2018.



19 Signature:

20 Name: Deirdre Des Jardins  
21 Title: Principal, California Water Research

22 Party/Affiliation:  
23 Deirdre Des Jardins

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26 Santa Cruz, California 95060

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